

## **REMARKS**

Claims 12-22 and 24-27 are now pending in the application. Claim 23 has been cancelled. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 112**

Claims 12-27 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

In view of the amendments to claims 12, 17 and 22 and 24-27, Applicants' believe these rejections are now rendered moot.

### **DOUBLE PATENTING**

Applicant acknowledges the Examiner's comments regarding a potential double patenting rejection and has amended claim 17 in an effort to render the rejection moot.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 22 and 24-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sautter, Jr. (U.S. Pat. No. 5,620,226). This rejection is respectfully traversed.

As the Examiner is well aware, a rejection under 35 U.S.C. §102(b) can only be maintained if a single reference teaches each and every element of the claims. If there are any differences whatsoever between the reference and the claim(s), the rejection

cannot be based on 35 U.S.C. § 102. Titanium Metals Corp. v. Banner, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).]

In Sautter, there is no complementary bearing shape shaped on an engaging element of a body on which the lid is pivotally arranged. Further, no hook forming means are adapted for releasably locking the body on which the lid is pivotally arranged, in a locking position relative to the base adapted to be secured to the bodywork of the vehicle, while allowing the lid to hinge relative to the body.

In Sautter, neither the lid, the tonneau 30, nor the bodywork of the vehicle on which the tonneau 30 is articulated comprise such a locking device and especially such a complementary bearing shape provided on to the lid.

In view of the foregoing, Applicant respectfully requests that the rejection be reconsidered.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sautter, Jr. (U.S. Pat. No. 5,620,226). In view of the cancellation of claim 23, this rejection is rendered moot.

Applicant also notes that the inventor and invention dates of the subject matter of the claims covered by this application were indeed commonly owned at the time of the invention.

**ALLOWABLE SUBJECT MATTER**

The Examiner states that claims 12-21 would be allowable if rewritten or amended to overcome the rejections under 35 USC 112, second paragraph. Accordingly, Applicant(s) have amended independent claims 12 and 17 to overcome this rejection. Therefore, claims 12-21 should now be in condition for allowance.

**CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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